

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 5415

IN THE MATTER OF:

Served September 25, 1998

Application of LAIDLAW TRANSIT)	Case No. AP-98-33
SERVICES, INC., Trading as)	
METROACCESS, for a Certificate)	
of Authority -- Irregular Route)	
Operations)	

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. Applicant is controlled by Laidlaw Transit, Inc., WMATC Carrier No. 100, which operates in the charter school bus market. The application is unopposed.

This case is governed by the Compact, Title II, Article XI, Section 7, regarding applications for certificates of authority, and Article XII, Section 3, regarding applications for approval of common control.

Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

Article XII, Section 3(a)(iii) & (c), authorizes the Commission to approve common control of two or more carriers, through ownership of stock or other means, if the Commission finds the acquisition is consistent with the public interest. The public interest analysis focuses on the fitness of the controlling party, the resulting competitive balance, and the interest of affected employees.¹

Applicant proposes commencing operations with twenty vans and six sedans. Applicant's proposed tariff contains an hourly rate for transportation under a proposed contract with the Washington Metropolitan Area Transit Authority.

¹ DC Code Ann. § 1-2414 (1992); In re Cavalier Transp. Co., Inc., t/a Tourtime America, Ltd., & Tourtime America Motorcoach, Ltd., No. AP-96-21, Order No. 4926 (Sept. 12, 1996).

Applicant filed a balance sheet as of February 28, 1998, showing assets of \$101,576,363; liabilities of \$72,528,748; and equity of \$29,047,615. Applicant's projected operating statement for the first twelve months of WMATC operations shows WMATC operating income of \$2,837,000; WMATC expenses of \$2,562,200; and net income of \$274,800.

Applicant certifies it has access to, is familiar with, and will comply with the Compact and the Commission's rules and regulations thereunder.

Based on the evidence in this record, the Commission finds that the proposed transportation is consistent with the public interest and that applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

The Commission also finds the proposed common control is consistent with the public interest for the following reasons. First, the fitness of the acquiring party, Laidlaw Transit, Inc., WMATC Carrier No. 100, was established when we approved the transfer of Certificate No. 100.² Second, there should be no adverse effect on competition from the decision of Laidlaw Transit, Inc., to enter the market through a subsidiary instead of a division. Finally, the existing employees of Laidlaw Transit, Inc., should not be adversely affected by our approval of this application. Launching a new service through a subsidiary tends to shield a parent's employees from the consequences of any unprofitable operations in the new market.

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 447 shall be issued to Laidlaw Transit Services, Inc., trading as MetroAccess, 1010 Wayne Avenue, Suite 510, Silver Spring, MD 20910.

2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued in accordance with the preceding paragraph.

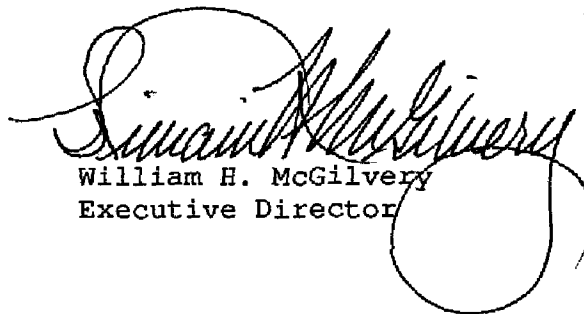
3. That applicant is hereby directed to file the following documents within thirty days: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) a vehicle list stating the year, make, model, serial number, fleet number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations;

² In re Laidlaw Transit, Inc., & National School Bus Serv., Inc., No. AP-97-08, Order No. 5050 (Mar. 26, 1997).

(d) evidence of ownership or a lease as required by Commission Regulation No. 62 for each vehicle to be used in revenue operations; (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia; and (f) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61.

4. That the grant of authority herein shall be void and the application shall stand denied upon applicant's failure to timely satisfy the conditions of issuance prescribed herein.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS ALEXANDER, LIGON, AND MILLER:



William H. McGilvery
Executive Director